



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

COPY MAILED

AUG 01 2006

OFFICE OF PETITIONS

In re Patent No. 6,971,097	:	
Wallman	:	
Issue Date: November 29, 2005	:	DECISION ON APPLICATION
Application No. 09/591,172	:	FOR
Filed: June 9, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. SUN1P270/P4566	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed December 12, 2005, requesting reconsideration on the basis that the period of adjustment calculated for Office delay in mailing the first Office action is incorrect.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED.**

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On March 18, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

application. The Notice stated that the patent term adjustment to date is zero days. This initial determination was based, in part, on the period of adjustment for Office delay in mailing the first Office action being zero days. PALM records indicate that the issue fee payment was received in the Office on June 20, 2005. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 20, 2005. Accordingly, it is appropriate to dismiss this petition as untimely filed.

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal line extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions